

ered by Sir Matthew B. Begbie. C.J., in the Case of Haggerty vs. Duck.

ntractor's Grievances Ventilated-The Old Law and the New One Explained.

COUNTY COURT.

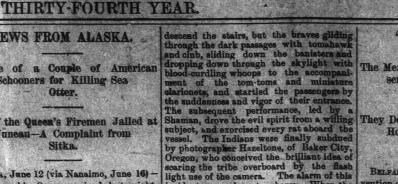
e the Chief Justice sitting as a County Court Judge, gerty vs. Grant & Duck.

saction it was alleged that Grant (eithe tractor, or as the agent of this co-nt or possibly under engagement with dy else-as to which there was no evibeing employed in constructing works ings on land belonging to Duck, writing, in March last, with the in writing, in March last, with the ff for executing certain excavations, at ce of \$150, and for the supply of materials ted price per load or cubic yard, the to be ascertained on completion. Dur-progress of the work it was alleged that he progress of the work it was alleged that ional excavation became necessary, an agreed price of \$100, and hundred and eighty thousand is hauled, the market rate of which would per thousand. The plaintiff had fully remed his part on the 22nd of April. His e claim amounted to \$825 or thereabouts, hat day he received from Grant \$300 "as payment of supply of labor and mater-and it was then agreed between them that alance was to be paid by Grant on the 22nd ay. Grant having abandoned his work, Victoria, the plaintiff on the 12th of May ght this action for judgment against the supple of the supple to the balance \$555 and to at the balance this action for judgmont against t for the balance, \$525, and to establish a m Duck's land to secure that amount. The nons, under the statute of 1892, called upon t to file a dispute note within eight days. mons, under thestatute of 1832, called upon nt to file a dispute note within eight days. summons was not personally served on nt, who could not be found. The plaintiff yured an order for leave to proceed as if ional service had been effected, and signed gment against Grant for \$525 and costs. r Matthew B. Begble-I do not know ther it is any longer open to Mr. Duck to ute the amount of plaintiff's claim. It has n ascertained by judgment (however ob-ted) in an action to which he was a party-ion 17, does not exactly apply: for I have dea whether Grant had a good defence or However, I shall allow Mr. Duck to de-de upon both the points which were origi-y open to him -viz: both as to the regular-of the plaintiff's proceedings to establish lien, and as to the amount. r. Jay then proceeded with the case for the intiff, Mr. Belyea for the defendant, Duck, he remaining facts and arguments suffi-itly appear in the judgment. he Chief Justice-There are several objec-is to the defendant's proceeding in this-ion. The nature of it is to be kept in thise ion. The nature of it is to be kept in the intift to make certain payments, amounting itl to about \$\$25, for work to be defendant.

a. The nature of it is to be kept. In view. defendant, Grant, contracted with the tiff to make certain payments, amounting it o about \$255, for work to be done and rials to be furnished on land belonging to Duck. Of this \$300 was paid on the 2nd, pril, 1892; and the plaintiff agreed with at that the balance should be paid on 2nd of May. The statutes provide that the s due by Grant shall, if the plaintiff b the steps therein mentioned, be secured n, and in case of default by Grant levied by of, Mr. Duck's land. The steps required by statutes to acquire and maintain this lien first, the filing of an affidavit in the statu-r form, within 31 days from the completion he work, sc : and next, the bringing of an ion within 30 days after filing such affida. The present action is accinst Grant, to re-er the unpaid balance of \$325, and to have lifen on Duck's land for that sum declared, if necessary, realized. The first objection

the first set of the second se on on the 12th. But there are several other grounds of objec-ion at least equally serious. This is a mixed him for labor and materials; mainly for asteri-is; the whole supplied in March and april lasr, and so, governed by the Act of 1891, thich in express terms only confers this lien pon claims for work and labor; and by ection 30 repeals the previous statutes which in express terms only confers this lien pon claims for work and labor; and by ection 30 repeads the previous statutes it 1838-59-50, which included material-nem. But notwithstanding this broad epead, section 30, immediately pro-serds to declare that 'such repeal shall not ffect any right of lien which would have ex-sted but for the passing of this Act (1834). 'On he best consideration 1 c.n give to this enact-ment, I take it to mean that the previous Acts re repealed only as to liens for work and labor, which are to be governed by the new Act, but ill other liens are to be left under the old law. 'Was told during the argument that the inten-ion of the Legislature was otherwise—that it was meant to exclude all claims by material-nem. I do not think they have expressed that intention. But if they have, then the plaintiff an evidently be allowed no claim whatever or material, he would be completely out of have quoted, from section 30, modify the repeal of the former status, and the question is: What right of lien has the plaintiff got under the old law fixidently none; for he has not complied with the stipulations of the old law as to the affida-rit. He does not specify the particulars of the material alleged to have been provided. He has indeed taken the form in the schedule to the Act of 1891; and as that Act does not deal with the signed form rit. He does not specify the parliculars of the material alleged to have been provided. He has indeed taken the form in the schedule to the Act of 1891; and as that Act does not deal with the liem of material-men, the schedule form naturally omits all mention of materials. There head the forms of afflavit; the omits the ad-tress of the land owner. The same statute which gives the inchoater right of lien, either to work or materials, declares that it shall absolutely cease unless an afflavit be fild within 31 days, stating the enumerated par-iculars, one of wifeth is very unusual nature, the st-tute must be strictly followed. On these strong again, therefore, the claim of lien fails. Then the plaintiff has losed his case with out provide a strictly followed. On these or materials were supplied at the request of the game. That denote that the work or materials were supplied at the request of the plaintiff sclaims, was ever brought with the plaintiff sclaim, was ever brought with the plaintiff sclaims, was ever brought within the plaintiff sclaims, was ever brought within the plaintiff sclaims, was ever brought within the plaintiff sclaims, enter a vericit to take cogni-zance of the work, etc. If I were to decite agent (section 7 in each statute); or that the agent (section fin each statute); or that the strictly as the starter sequent of the provide as the supplied I might, perhaps, in an ordinary action, enter a vericit of non-suit, without prejudice to a fresh action. But these statutes do not confer ordinary rights. They must be followed and construct at least as strictly as the startes regulating conditional bills of sale. And I do not think that the plain-iff could in any fresh action overcome the very word cause why the costs should not follow the vert, and, unless there be good cause. have to discretion in the matter of costs. Mr. Jay (Jay, Yates & Russell) for the diam. ess there be good cause, I have t, and, un scretion in the matter of costs. . Jay (Jay, Yates & Russell) for the claim-Haggerty; Mr. Belyea (Belyea & Gregory) he defendant, Simeon Duck.

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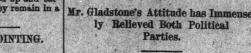
VICTORIA, BRITISH COLUMBIA, FRIDAY, JUNE 24, 1892.

e Weekly Colonist.

VOLUME XXXIV. NO 29.

statement as an announcement that the lat ter, and not the former, was the president's representative in the State department and that his official rights and faculties as the president's mouthpiece had been suspended.

EIGHT HOURS A DAY.



Brazilian Elections.

BUENOS AYRES, June 12 .- The electoral college nas nominated Senor Saena Pana for the Presidency, and Senor Uriburn for for the Vice-Presidency.